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Of Longview Ultra Construction Loan Investment Fund*

Hearing Date: July 22, 2013
Hearing Time: 1:30 p.m.
Objections By: July 15, 2013

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
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In re:

EAST END DEVELOPMENT, LLC,

Chapter 11
Case No.: 12-76181 (REG)

Debtor.

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ALL SYSTEMS MAINTENANCE, INC.,
HUSBANDS FOR HIRE, INC. d/b/a ALL FLOORS
AND INTERIORS, INTER-COUNTY
MECHANICAL CORP., JPR2, INC., and WATER
MILL BUILDING SUPPLY, INC., as
representatives of the estate of East End
Development, LLC,

Adv. Pro. Nos. 13-08081 (REG)

Plaintiffs,

-against-

AMALGAMATED BANK, as Trustee of Longview
Ultra Construction Loan Investment
Fund f/k/a Longview Ultra I Construction Loan
Investment Fund,

Defendant.

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**DEFENDANT'S NOTICE AND MOTION FOR AN ORDER PURSUANT TO
BANKRUPTCY RULE 7012(b) AND RULE 12(b)(6) OF
THE FEDERAL RULES OF CIVIL PROCEDURE
DISMISSING THE ADVERSARY COMPLAINT IN ITS ENTIRETY**

PLEASE TAKE NOTICE, that upon (i) the Affidavit of James O'Reilly as First Vice President of Amalgamated Bank as Trustee of Longview Ultra Construction Loan Investment Fund (f/k/a Longview Ultra 1 Construction Loan Investment fund, the "Lender") sworn to on June 28, 2013 (the "O'Reilly Aff."); (ii) the accompanying Memorandum of Law in Support of Motion to Dismiss; and (iii) certain Orders previously issued and entered by this Court in Debtor's bankruptcy case, Defendant AMALGAMATED BANK, as Trustee of Longview Ultra Construction Loan Investment Fund f/k/a Longview Ultra I Construction Loan, the defendant in the above-captioned adversary proceeding (hereinafter, "Amalgamated" or the "Lender"), will move pursuant to Bankruptcy Rule 7012(b) and Federal Rules of Civil Procedure 12(b)(6), for entry of an order dismissing Plaintiffs' Complaint on the grounds that: (1) Plaintiffs' purport to assert claims on behalf of the debtor's estate, but the debtor's estate does not include the claims for relief stated therein, which are in the nature of claims for relief that the debtor holds in trust as assets for the benefit of persons who supplied materials, labor and/or services to the debtor's real estate development project, i.e. the plaintiffs themselves; and (2) in any event, the Complaint fails to state a claim for relief and/or asserts claims that are flatly contradicted and/or precluded by documentary evidence, including the very Building Loan Agreement referred to in the Complaint, before the Honorable Robert E. Grossman, United States Bankruptcy Judge, in his Courtroom at the United States Bankruptcy Court, Eastern District of New York, 290 Federal Plaza, Central Islip, New York, Room 860, on **July 22, 2013 at 1:30 p.m.**, or as soon thereafter as can be heard.

PLEASE TAKE FURTHER NOTICE, that pursuant to Rule 9006-1 of the Local Rules of the United States Bankruptcy Court for the Eastern District of New York, any

answering papers are to be served upon the undersigned so as to be received not later than seven (7) days before the hearing date above stated.

Dated: Uniondale, New York
July 1, 2013

WESTERMAN BALL EDERER MILLER
& SHARFSTEIN, LLP

By: /s/ John E. Westerman
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